

PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

To:

MARTEGANI, Franco
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PCT

NOTIFICATION OF TRANSMITTAL OF THE INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Rule 71.1)

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| | | Date of mailing (day/month/year) | 12.05.2005 |
| Applicant's or agent's file reference Cal 86936 | | IMPORTANT NOTIFICATION | |
| International application No. PCT/EP 03/12029 | International filing date (day/month/year) 29.10.2003 | Priority date (day/month/year) 24.01.2003 | |
| Applicant OPTIGEN OPTICAL GROUP S.R.L. et al. | | | |

1. The applicant is hereby notified that this International Preliminary Examining Authority transmits herewith the international preliminary examination report and its annexes, if any, established on the international application.
2. A copy of the report and its annexes, if any, is being transmitted to the International Bureau for communication to all the elected Offices.
3. Where required by any of the elected Offices, the International Bureau will prepare an English translation of the report (but not of any annexes) and will transmit such translation to those Offices.
4. **REMINDER**

The applicant must enter the national phase before each elected Office by performing certain acts (filing translations and paying national fees) within 30 months from the priority date (or later in some Offices) (Article 39(1)) (see also the reminder sent by the International Bureau with Form PCT/I/B/301).

Where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report. It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned.

For further details on the applicable time limits and requirements of the elected Offices, see Volume II of the PCT Applicant's Guide.

The applicant's attention is drawn to Article 33(5), which provides that the criteria of novelty, inventive step and industrial applicability described in Article 33(2) to (4) merely serve the purposes of international preliminary examination and that "any Contracting State may apply additional or different criteria for the purposes of deciding whether, in that State, the claimed inventions is patentable or not" (see also Article 27(5)). Such additional criteria may relate, for example, to exemptions from patentability, requirements for enabling disclosure, clarity and support for the claims.

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| Name and mailing address of the international preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 | Authorized Officer Maier, E Tel. +49 89 2399-2230 |
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PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT
(PCT Article 36 and Rule 70)

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|---|--|---|
| Applicant's or agent's file reference Cal 86936 | FOR FURTHER ACTION | See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416) |
| International application No. PCT/EP 03/12029 | International filing date (day/month/year) 29.10.2003 | Priority date (day/month/year) 24.01.2003 |
| International Patent Classification (IPC) or both national classification and IPC G02C5/22 | | |
| Applicant OPTIGEN OPTICAL GROUP S.R.L. et al. | | |

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.

2. This REPORT consists of a total of 6 sheets, including this cover sheet.

This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of sheets.

3. This report contains indications relating to the following items:
 - I Basis of the opinion
 - II Priority
 - III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV Lack of unity of invention
 - V Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI Certain documents cited
 - VII Certain defects in the international application
 - VIII Certain observations on the international application

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| Date of submission of the demand 03.08.2004 | Date of completion of this report 12.05.2005 |
| Name and mailing address of the international preliminary examining authority: European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 | Authorized Officer Berg, S Telephone No. +49 89 2399-2699 |



**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/12029

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

Description, Pages

1-7 as originally filed

Claims, Numbers

1-9 as originally filed

Drawings, Sheets

1/4-4/4 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
- the language of publication of the international application (under Rule 48.3(b)).
- the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- contained in the international application in written form.
- filed together with the international application in computer readable form.
- furnished subsequently to this Authority in written form.
- furnished subsequently to this Authority in computer readable form.
- The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- the description, pages:
- the claims, Nos.:
- the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. PCT/EP 03/12029

5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

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|-------------------------------|-------------|---------|
| Novelty (N) | Yes: Claims | |
| | No: Claims | 1-3,5-9 |
| Inventive step (IS) | Yes: Claims | |
| | No: Claims | 1-9 |
| Industrial applicability (IA) | Yes: Claims | 1-9 |
| | No: Claims | |

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

Reference is made to the following document/s/:

D1:CA-A 2 321 318

D2:US-A-3 264 678

D3:US-B1-6 217 170

1. The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claims 1-3,5-9 is not new in the sense of Article 33(2) PCT.

The document D1 discloses (the references in parentheses applying to this document) the following features. For sake of clarity, each claim in the present application is compared separately. It is evident that all features claimed have been shown by the prior art.

Claim 1.

In a spectacle frame, the lens supporting structure 3-0 comprise two magnetic elements 3-3, that are arranged such that they engage with second magnetic elements 4-1 in the temples 4-0, allowing relative movement between the frame and the structure.

Claim 2

The magnetic elements overlap each other (in one direction at least).

Claim 3

The magnetic element 3-3 is held on a perimetric portion (see fig. 3) with a lateral extension of the structure 3-2.

Claim 5

The shape of the magnetic element 4-1 is cylindrical (page 2 of description), and engages slidingly with the complementary shape of magnetic element 3-3.

Claim 6

Seen from above the magnetic elements are side by side.

Claim 7

The magnetic element 4-1 has a circular perimetric portion and the magnetic element 3-3 has a corresponding, complementary perimetric seat.

Claim 8

The structure of D1 is provided with laterally arranged magnetic elements 3-3, engaging with magnetic elements 4-1, that are integral with the temples.

Claim 9

The temple of D1 has a magnetic element, designed to be complementary and to engage with a magnetic element 3-3.

Regarding claim 4

The document D2 discloses (the references in parentheses applying to this document) the following features:

In a spectacle frame, the lens supporting structure comprises magnetic elements (pins 40), that are arranged such that they engage with second magnetic elements 42 in the temples, allowing relative movement between the frame and the structure. Further, the frame shows that the magnetic elements 40/42 overlap in a vertical sense, such that they together define an axis of rotation, whereby the one magnetic element 40 is pin shaped and magnetically fits to a complementary seat, i.e. the upper end of lower pin 42, whereby seat is interpreted in its broad, general sense.

2. It would appear, that the present application does not meet the criteria of Article 33(1) PCT, even if the claims are redrafted, because the subject-matter of the claims does not involve an inventive step in the sense of Article 33(3) PCT.

In the description, there are some features regarding the disk shaped magnetic elements, that are stacked ontop of each other (such as in document D3), but carrying an integrated pin and an integrated seat to define an axis of rotation.

These features are not explicitly mentioned in this combination in the present claims.

However, it should be noted that the objective problem to be solved by such an arrangement concerns the need for a well defined point of rotation for the user.

The conventional knowledge of a pin and its seat would be applied without an inventive step.

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP 03/12029

PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT

**NOTIFICATION CONCERNING
SUBMISSION OR TRANSMITTAL
OF PRIORITY DOCUMENT**

(PCT Administrative Instructions, Section 411)

| | | | |
|--|---|--|---|
| Date of mailing (day/month/year) 01 December 2003 (01.12.03) | To: MARTEGANI, Franco Via Carlo Alberto, 41 I-20052 Monza Italy | | |
| Applicant's or agent's file reference NdP 86936 | IMPORTANT NOTIFICATION | | |
| International application No. PCT/EP03/12029 | International filing date (day/month/year) 29 October 2003 (29.10.03) | | |
| International publication date (day/month/year) Not yet published | Priority date (day/month/year) 24 January 2003 (24.01.03) | | |
| Applicant OPTIGEN OPTICAL GROUP S.R.L. et al | | | |
| <p>1. The applicant is hereby notified of the date of receipt (except where the letters "NR" appear in the right-hand column) by the International Bureau of the priority document(s) relating to the earlier application(s) indicated below. Unless otherwise indicated by an asterisk appearing next to a date of receipt, or by the letters "NR", in the right-hand column, the priority document concerned was submitted or transmitted to the International Bureau in compliance with Rule 17.1(a) or (b).</p> <p>2. This updates and replaces any previously issued notification concerning submission or transmittal of priority documents.</p> <p>3. An asterisk(*) appearing next to a date of receipt, in the right-hand column, denotes a priority document submitted or transmitted to the International Bureau but not in compliance with Rule 17.1(a) or (b). In such a case, the attention of the applicant is directed to Rule 17.1(c) which provides that no designated Office may disregard the priority claim concerned before giving the applicant an opportunity, upon entry into the national phase, to furnish the priority document within a time limit which is reasonable under the circumstances.</p> <p>4. The letters "NR" appearing in the right-hand column denote a priority document which was not received by the International Bureau or which the applicant did not request the receiving Office to prepare and transmit to the International Bureau, as provided by Rule 17.1(a) or (b), respectively. In such a case, the attention of the applicant is directed to Rule 17.1(c) which provides that no designated Office may disregard the priority claim concerned before giving the applicant an opportunity, upon entry into the national phase, to furnish the priority document within a time limit which is reasonable under the circumstances.</p> | | | |
| <u>Priority date</u> 24 Janu 2003 (24.01.03) | <u>Priority application No.</u> MI2003A000105 | <u>Country or regional Office or PCT receiving Office</u> IT | <u>Date of receipt of priority document</u> 19 Nove 2003 (19.11.03) |

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| The International Bureau of WIPO 34, chemin des Colombettes 1211 Geneva 20, Switzerland Facsimile No. (41-22) 338.89.75 | Authorized officer Rosana REYES (Fax : 338 89 75) Telephone No. (41-22) 338 8471 |
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PATENT COOPERATION TREATY

From the
INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

PCT

To:

MARTEGANI, Franco
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NOTIFICATION OF RECEIPT OF DEMAND BY COMPETENT INTERNATIONAL PRELIMINARY EXAMINING AUTHORITY

(PCT Rules 59.3(e) and 61.1(b), first sentence
and Administrative Instructions, Section 601(a))

Date of mailing
(day/month/year)

11-08-2004

Applicant's or agent's file reference
Cal 86936

IMPORTANT NOTIFICATION

International application No.

PCT/EP03/12029

International filing date (day/month/year)

29/10/2003

Priority date (day/month/year)

24/01/2003

Applicant

OPTIGEN OPTICAL GROUP S.R.L. et al.

- The applicant is hereby notified that this International Preliminary Examining Authority considers the following date as the date of receipt of the demand for international preliminary examination of the international application:

03/08/2004

- This date of receipt is:

- the actual date of receipt of the demand by this Authority (Rule 61.1(b)).
- the actual date of receipt of the demand on behalf of this Authority (Rule 59.3(e)).
- the date on which this Authority has, in response to the invitation to correct defects in the demand (Form PCT/IPEA/404), received the required corrections.

- ATTENTION:** That date of receipt is after the expiration of 19 months from the priority date. Consequently, in respect of some Offices, the demand does not have the effect of postponing the entry into the national phase until 30 months from the priority date (or later in some Offices) (Article 39(1)) and the acts for entry into the national phase must therefore be performed within 20 months from the priority date (or later in some Offices). However, in respect of some other Offices, the time limit of 30 months (or later) may nevertheless apply. See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

- (If applicable) This notification confirms the information given by telephone, facsimile transmission or in person on:

- Only where paragraph 3 applies, a copy of this notification has been sent to the International Bureau.

Name and mailing address of the IPEA/



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